



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,955	03/31/2004	Jonathan Lee Orwant	FT04988	5873
60337 7590 05/25/2010 THORNE & HALAJIAN, LLP 111 WEST MAIN STREET BAY SHORE, NY 11706				
EXAMINER				
WENDELL, ANDREW				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
05/25/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,955

Applicant(s)

ORWANT ET AL.

Examiner

ANDREW WENDELL

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.5, 6.9-20, 22, 28-42, 45-50 and 54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20, 22, 33-42, and 47-50 is/are allowed.
- 6) ☒ Claim(s) 1.5, 6.9-19, 28-32, 45, 46 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 5-6, 9-19, and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 2 of the claim, "a mobile object" is confusing to the examiner when the rest of the claim teaches device(s). The examiner does not know if the mobile object is the same as the device(s) or a different object that is tracked.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 28-32 and 45-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Vataja (US Pat Pub# 2002/0123327).

Regarding claims 28 and 45, Vataja teaches means for obtaining a message based on input from the sender (Sections 0025-0028); means for obtaining a designated location based on input from the sender (Sections 0004-0006 and 0027); means for obtaining identification of at least two recipients, from among the plurality of potential recipients, based on input from the sender (Sections 0004-0006, 0027-0028,

and 0031-0032); and means for automatically delivering the message electronically to a first one of the identified recipients based upon the position of the first one of the identified recipients relative to a second one of the identified recipients, as derived from the position-determining technology (Sections 0008 0023, 0025, and 0029-0032, the sender and the first recipient are the same device with different parties (i.e. people) each using it at different times during the sending and positioning compared to the second device with second recipients being a different party (i.e. people)), with each of the sender and the at least two recipients being different parties (Sections 0008 0023, 0025, and 0029-0032, does not state different devices so a different person can use the device at a different time to read on the limitation). Vataja fails to teach a second one of the identified recipients.

Regarding claims 30 and 46, Vataja teaches means for obtaining, at the server, a message based on input from a first client (Sections 0025-0028); means for obtaining, at the server, an identification of a second, mobile client as the intended recipient for receiving the message, based on input from the first client (Sections 0004-0006, 0027-0028, and 0031-0032); means for obtaining, at the server, an identification of a third client, based on input from the first client (Sections 0004-0006, 0027-0028, and 0031-0032); and means for automatically triggering electronic delivery of the message to the second client of the intended recipient upon the second, client being determined to be at a designated position relative to the third client (Sections 0008, 0023, 0025, and 0029-0032, since at least some of the clients are only being mobile as stated earlier in the claim that means that the second and third client can have the same device and

switch off at different stages of the process which reads on the limitations), with each of the first, second, and third clients being different clients (Sections 0008 0023, 0025, and 0029-0032, does not state different devices so a different person (i.e. client) can use the device at a different time to read on the limitation).

Regarding claim 29, Vataja teaches wherein each of the plurality of potential recipients includes a position-determining device to determine its current position (Sections 0004-0008 and 0027-0032).

Regarding claim 31, Vataja teaches wherein the third client is also a mobile client having a position-determining device (Sections 0004-0008 and 0027-0032).

Regarding claim 32, Vataja teaches wherein the first and second clients are the same client (Sections 0004-0008 and 0027-0032).

Allowable Subject Matter

5. Claims 20-22, 33-42, and 47-50 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 5-6, 9-19, 28-32, 45-46, and 54 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW WENDELL whose telephone number is (571)272-0557. The examiner can normally be reached on 8:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/
Examiner, Art Unit 2618

Application/Control Number: 10/813,955

Page 6

Art Unit: 2618

5/21/2010